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MARKETING AND BARGAINING ISSUES:

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The 26th Annual Agricultural Bargaining
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PREFACE

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THE ECONOMIC SITUATION AND OUTLOOK
An Overview

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Economic Perspectives, Inc.

The outlook for U.S. agriculture in calendar year 1982 is very much conditioned by what happens in the U.S. and world economies. It's conditioned by what happens in food production and consumption in the rest of the world, because we're such a large factor in the world export market now.

On the domestic scene, the outlook is a difficult topic to address because things change almost daily. The decisions made concerning the President's economic program are a major factor in changing the outlook almost from one day to the next; especially how Congress responds to program and budget proposals will be influential. Abstracting from that as much as one can, and looking as far ahead as one can see, which is not very far, the outlook for the remainder of 1982 is not bright. The economy is expected to remain sluggish, that is, the real growth in the gross national product, 1.8 percent in 1981, is expected to be lower in 1982, and might even decline by a half percent. Some expect the economy to rebound somewhat in 1982. The index of leading economic indicators, released today, was up a bit for the first time. Those indicators are supposed to signal what's going to happen in the months ahead. So, already there's much speculation that the recession has bottomed out and the economy is turning up. Then, you may hear another forecaster who says we're at the bottom, but that we're going to slide along for the remainder of this year with the upturn not coming until next year. But, I would expect we're likely to see the worst of the economic performance in the first half of the year, and then some upturn in the second half.

Unemployment throughout 1982 will remain high. It's likely to peak in the second quarter of this year, at post-Depression record-high levels, then decline throughout the remainder of the year. It's almost certain to average higher in 1982 than in 1981. Real disposable income that affects consumers' purchasing power, especially of food and other consumer goods, is expected to decline in 1982 by about one-half percent from 1981.

Interest rates will remain high through the remainder of the year. The pattern of interest rates is confusing. They were supposed to decline somewhat early in the year, but most

pressure now seems to be pushing them up again. But, it is likely that long-term rates will ease somewhat over the course of the year. The major uncertainty with interest rates is what happens to the money supply. The President and others are beginning to "jaw bone" the Federal Reserve to loosen the money supply. If that happens, interest rates could decline.

Keep in mind 1982 is an election year, and things that are done now are being viewed as to what they will bring about in the second half of the year before the elections. If the money supply is loosened, interest rates could fall, but at the same time, consumer demand could spark inflation again. That brings me to the only bright spot in the economic performance of the country, the inflation rate. Consumer prices are declining and for the year most people expect to see inflation in the range of 7 to 8 percent, down from 10.3 percent last year.

So, all in all, it looks like another year of economic difficulty. Policy decisions with respect to the money supply and the President's economic program will be important determinants of just how fast the economy picks up from the current recession.

Now turning to world agriculture, the situation through most of the world is one of abundant crops. Supplies of most commodities are abundant, one of the major factors conditioning the demand for U.S. exports.

I'll run through the major commodities to indicate what's happening with them. For coarse grains, world supplies in 1981/1982, the most recent crop, are record large. The demand is relatively weak, and the United States is going to build feed grain stocks substantially from the large crop we had last year. World wheat supplies are large; 449 million tons were harvested in the most recent crop. But consumption is expected to equal that amount, so stocks are likely to remain unchanged at about 75 million tons. That's not a particularly high stock-to-consumption ratio. So, wheat will likely be fairly well in balance for this year. A large world rice crop was harvested, especially in countries that usually import rice. The U.S. rice export outlook is thus rather gloomy. It's likely to be something on the order of 2.7 million tons for the calendar year, down from 3 million tons in the past 2 years. For oilseeds, world production is also a record--175 million tons--and slower economic growth in the rest of the world economies, especially in the developed economies, dampens demand because oilseeds are a large industrial as well as a food product.

The oilseed market is fraught with some uncertainty. Yesterday, for instance, a story came out of Brazil and Argentina about exceptionally dry weather. That caused a lot of activity in the market. U.S. exports were forecasted at about 23 million tons. Shipments of late have been running higher than most people had expected, higher than the U.S. Department of Agriculture had been forecasting, but forward sales have started to slip off a little bit more than most people expected.

For cotton, the world crop last year was also a record 71 million bales. That was 9 percent more than the previous year and most forecasters only see use up by 2 percent in this calendar year. Cotton prices can thus be expected to fall. U.S. exports are expected to be up just slightly from last year to about 7-1/2 million bales. A major factor in this is the large Chinese crop, which implies the Chinese are not likely to import as much as earlier expected.

So it seems that overall, the world agricultural situation is characterized by relative abundance, low commodity prices, and in some cases, stock accumulation.

Now, I'll turn to U.S. trade. For fiscal year 1982 (Oct. 1, 1981 - Sept. 30, 1982), the forecast is for exports to total \$45.5 billion. That's about 4 percent higher than in fiscal year 1981, but that's a pretty soft number. Most of the forecasted increase for 1982 is due to a greater volume of products being shipped rather than to any increase in prices. That \$45.5 billion implies about 175 million tons would be shipped, 12 million tons more than last year.

The surprising thing in the export pattern is that coarse grain demand has been abnormally weak and wheat demand has been somewhat better than expected. That's largely because the Soviets are taking more wheat than they would in more normal times. The outlook for price patterns for export commodities is: wheat prices will remain low, but could strengthen a bit; corn and sorghum stocks are large, and not likely to show much strength; rice is weak; oilseeds are weak, but could show some change; and the cotton price is weak. That is not a terribly poor export outlook, but certainly not as bright as in the years after 1973.

I'll now turn to domestic agriculture and run through the major commodities. As I indicated, wheat prices were low. They reached seasonal lows in December; they're rebounding some now. USDA expects the season average price to be in the range of \$3.70 to \$3.85, compared with \$3.96 for the previous crop, about 15 to 25 cents lower.

The imbalance in the wheat situation in this country could continue. Australia has just harvested a large crop. Some reports coming out of Australia indicate farmers are going to seed a larger area to wheat in the coming year. Canadian farmers also may increase their area, and the European Economic Community could well do the same. The outlook is not terribly bright for wheat throughout the world, if you're a seller, and I think only bad weather could bring a significant change in the coming year.

We harvested a large rice crop last year, while our exports are down 10 percent, as I indicated. We're going to have a dramatic increase in domestic stocks. Prices are likely to be in the range of \$9 - \$10.50 per hundredweight; that compares with almost \$13.00 in the previous year. There is some potential for change. The price could be a little higher than indicated. Rice is not watched closely by most analysts in a lot of the countries, and there could be developments that haven't been observed yet.

We harvested a record feed grain crop last year. It was 7-1/2 million tons above the previous record in 1979. Feed use is expected to be up a little bit. Domestic use for other purposes is up some, and exports are only marginally larger, so our end-of-year stocks are likely to increase substantially. Quite a lot of the 1981 corn crop has been going into the farmer-owned reserve. At the present time, there are about 1.1 billion bushels, and the forecast is that it will reach 1.250 billion bushels by the end of the year. We have about 500 million bushels of wheat in the reserve now, about what it will be for the year. The corn price is likely to be somewhere in the neighborhood of \$2.50 to \$2.70. For comparison, it was \$3.10 in the previous year. We have the second largest supply of soybeans on record; the price is going to be substantially lower than it was last year.

For cattle, the situation is a little different. The economy, of course, affects meat prices. Consumers' disposable income determines what they are willing to pay, at least for the better cuts of meat. With disposable incomes down, we're likely to see weaker consumer demand. Overall, total red meat supplies are down and are likely to stay down for all of 1982.

The cattle in feedlots, the placements, are down. We'll probably see an increase in the proportion of range-fed beef relative to grain-fed beef. The Department of Agriculture indicates the price pattern is likely to be somewhere in the neighborhood of \$60 to \$65 for the year, but I would expect prices to be higher if feed prices remain low. We're likely to see a little more production than earlier expected. If the

economy picks up a little, it could improve demand a bit. Cattle prices could be somewhat higher than most people now expect.

Hog prices in 1981 averaged about \$44, up from \$40 in 1980. They're likely to be about the same in 1982. The last USDA report indicated inventory numbers were down considerably and total production for 1982 would likely be about 9 percent lower.

Broiler prices are likely to be about the same as in 1981, while production could be up a bit. The 1981 milk output was up 3 percent. Milk cow numbers remain high; the culling rate is low, and as long as cattle prices don't pick up, are likely to stay low; and feed costs are low. These factors together mean output in 1982 is likely to be 2 to 3 percent more than 1981. The dairy industry was affected by the change in dairy price support levels in the 1981 farm bill, one of the factors now affecting the milk price. The "all milk" price is likely to remain unchanged to slightly higher, unless there are future changes in the program.

With that brief overview of the situation for individual commodities, what does it mean in terms of farm income? How do all those things add up? I think one can conclude the outlook is gloomy. Cash receipts from marketings for all agricultural products are likely to be up only about 2 percent. Cash receipts from crops are up about 2 percent and for livestock, also about 2 percent.

On the expense side, it now seems production expenses for 1982 could be up by 6 percent. They could reach \$150 billion, and that sorts out to an income level in 1982 anywhere from 22 to 40 percent less than in 1981. In 1982, the aggregate income to the farm sector after inventory adjustment was probably \$22.8 billion. Accounting for the inventories on farms, the realized net was about \$18.8 billion. Now, most forecasters are saying that income in 1982, calculated either way, could be about \$14 billion. While the number possibly could be higher, the reduction will be significant.

As I indicated, livestock prices could be a little higher than most people now forecast. And, we could see some increase in the oilseed sector, depending on the weather in other parts of the world. We could see cash receipts a little higher. Land rental rates are coming down somewhat, but some farmers are unable to borrow as much for making the crop as they would like. This means they are likely to use a little less fertilizer than they would normally. All in all, production expenses could rise a little less than expected. With gross receipts a little higher and expenses a little lower, net farm

income could be somewhere in the range of \$14 to \$17 billion. Abnormally bad weather here or in a major part of the world would increase prices and incomes.

How does this translate into food prices? It means food prices for the third year in a row will increase only by the amount of increase in marketing and processing costs. Farm value of food is likely to remain unchanged for another year. Most analysts now see food prices for 1982 in the range of 6 to 8 percent. They were 8 percent for 1981. Early last November, at Outlook Conference time, USDA thought food prices would be near the low end of that range, closer to 6 percent. Since then, the freeze in Florida likely added a bit to that, and if meat and cattle prices are a little higher than now forecast, that will add a bit more. So, we could see food prices moving toward the top end of that range.

FRUIT AND VEGETABLE DEVELOPMENTS

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Economic Research Service is charged with conducting an extensive food and agricultural outlook program. The goals of this program link directly to the agency's overall mission:

- o Enhancing the quality of public policy decisions regarding food and agriculture, the use of natural resources, and the well-being of rural people and
- o Enhancing the quality of private sector decisionmaking, including the work done in the research community to improve the overall performance of the food and fiber system and rural institutions in serving the public interest.

Current analyses indicate the 1982 season promises to be an interesting one for growers of processing fruits and vegetables. The 1981/82 pack of leading canned vegetables was 6 percent smaller than a year earlier, while the pack of frozen vegetables was up 9 percent. Most notable were the smaller packs of canned tomatoes and tomato products, snap beans, cucumbers for pickles, and beets. Increases were registered in the packs of nearly all frozen vegetables. However, because of smaller carryover stocks, total supplies of both canned and frozen vegetables will be 5-8 percent smaller in 1982 than 1981.

The index of wholesale prices for 10 major canned vegetables in December was 12 percent higher. Smaller supplies, continued inflation, and reduced supplies of fresh winter vegetables indicate canned vegetable prices will edge up during the first half of 1982. Prices for frozen vegetables are expected to remain steady.

With good prices for most processed vegetables this year, canners and freezers are expected to increase their contracted acreage for processing vegetables this spring and summer, although high interest rates and costs of processing and storage have encouraged both processors and retailers to reduce inventories and gear production to current lower consumption rates.

Because supplies are tight and prices high, processing tomato growers are in a strong bargaining position. They should recoup losses of the past 3 or 4 years. Growers of sweet corn and peas for freezing also should do well this year, but snap bean acreage probably will be reduced.

The Vegetable Situation report also analyzes the supply, demand, and price situation for potatoes, sweetpotatoes, mushrooms, and dry beans. The 1981 fall potato crop totaled 291 million cwt., 9 percent larger than a year ago, and prices have declined from last year's record highs. With smaller stocks of frozen potatoes and continually increasing consumption, growers are in a good bargaining position again this year. Sweetpotato production rebounded in 1981. The sweetpotato pack was 50 percent larger last fall than a year ago. Farmers will be in a tight bargaining position next fall. Growers of dry beans have reaped record high prices for the past 3 years because of strong exports to Mexico. But these exports will be reduced seriously this year.

Prospects for the 1982 fruit crop vary but generally point to higher prices. A smaller output of most noncitrus fruit in 1981 led to a smaller pack of most items during 1981/82. However, with a larger carryover of most canned and dried fruit at the beginning of the season, total supplies are adequate.

Completed pack of most of the leading canned fruit items reported to date is smaller than a year ago. Because of smaller crops in Michigan, the leading cherry-producing State, the total pack of canned cherries was down sharply from last year's. Growers will be in a strong position there next summer. Total packs of both canned clingstone and freestone peaches were down 17 and 38 percent, respectively, from last year's. Growers also should be in a good bargaining position. Even with a smaller crop, the pack of canned apple items through last November 1 showed a mixed pattern.

Reflecting smaller crops, prices received by growers for most processing fruits are up. Higher prices and higher costs of processing and marketing have resulted in moderately higher prices for most canned fruits. With higher prices and a sluggish economy, demand for most canned fruit has been weak.

The smaller U.S. crop and much lower imports from Mexico have caused supplies of frozen strawberries to drop well below last year's. A 37-percent smaller tart cherry crop in 1981 sharply reduced the frozen tart cherry pack. Consequently, cold storage stocks of frozen fruit and berries on January 1 were 7 percent smaller than a year ago. Availability of new crop strawberries will be largely contingent on this year's field price. The Mexican outlook is poor. Prices for strawberries are expected to remain firm.

The smaller California grape crop also has caused a reduced output of raisins. The 1981 dried raisin output is estimated at 225,000 tons, 18 percent less than last year's record.

Prices received by California grape growers for raisins averaged \$1,291 a ton, up 8 percent from 1980. With a larger carryover, the total supply for the 1981/82 season will be slightly more than for the last season. Shipments have declined so far this season for both domestic and export markets. The 1982 export outlook is not promising. A strong U.S. dollar and large crops in both Greece and Turkey will limit U.S. exports. The slackening domestic movement is likely to be caused by higher prices and the sluggish economy. However, even with the slow movement, prices of raisins are not expected to weaken appreciably.

In summary, this looks like an interesting year for bargaining associations and processors. Processors, with generally reduced stocks of most items and tight supplies of a few, will need larger supplies of raw product of most items this year. However, they are faced with continued high interest rates and increased costs of processing and marketing. Growers have had 2 or 3 years of low prices for their processing fruit and have watched their production costs increase at a steady pace. They are ready for a change!

MARKETING ORDERS REASSESSED

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The Federal marketing order program for fruits, vegetables, and specialty crops is one of about 100 programs throughout the Government designated for reassessment by the President's Task Force on Regulatory Relief.

Marketing orders differ from other kinds of regulations that have been reviewed. Orders are issued only after a favorable vote by the growers involved. Moreover, costs or economic losses are much less apparent for marketing orders than for many other regulations. Nevertheless, marketing orders are a form of Government intervention in the marketplace that deserve evaluation. Responsibility for review of marketing orders was assigned to the Department of Agriculture. The review team submitted its report in October 1981. Guidelines for administering the orders were released in January 1982.

Like any effort of this type, the review was subject to limitations. The relatively short time available prevented indepth analyses of specific commodities and orders that would have added to our understanding. We relied heavily on past studies, but those providing definitive results are relatively few.

In analyzing marketing orders, we deal with programs where multiple, and frequently conflicting, goals are involved. These include increased efficiency, lower food costs, higher incomes for farmers, avoiding waste, and many others. Lack of consensus on how the different goals should be weighed makes analysis more difficult and precludes drawing final conclusions about which options are best.

Some of the economic effects of marketing orders are difficult to measure, given the current state of economic knowledge. We do not have good measures of the stabilization achieved through marketing orders or of the value of stability to society. Gains or losses from providing information of various kinds to decisionmakers are hard to evaluate.

Despite limitations, I believe the review made an important contribution in clarifying the issues, describing the major economic effects of marketing orders, and identifying the important options for change.

Evolution of Orders

Marketing orders were created in the 1920's, a period of desperately low incomes for fruit and vegetable growers and other farmers. Statutory authority rests in the Agricultural Marketing Agreement Act of 1937. It has had only modest changes during four decades of order operation.

Marketing orders facilitate group action by farmers. A key feature is Government involvement to prevent "free riders" from spoiling farmers' efforts to improve their economic situation. All handlers and producers must comply with marketing order provisions.

There are 47 marketing orders for fruits, vegetables, and specialty crops. Twenty-six operate on the West Coast, seven in Florida, and five in Texas. The remaining nine are scattered among the States.

Marketing orders are initiated through a prescribed procedure--public hearing, recommendation by the Secretary of Agriculture, and approval in referendum by two-thirds (or three-fourths) of the producers.

The crops covered are varied, including annuals and perennials. Some are highly perishable. Others are storable for considerable periods on the tree or after harvest. Some are exported in large volume; some have vigorous import competition. Marketing orders are prohibited for most processed commodities.

Economic Rationale

A competitive market free of Government interference produces desirable results under a wide range of circumstances. What then are the conditions in fruit and vegetable markets that might lead to market failure and call for Government involvement through institutions such as marketing orders?

Market participants must have adequate information if competition is to be efficient. In the produce industry, buyers' information about product quality is often incomplete. Producers lack information about each others' production and shipping intentions.

For competition to be fully effective, externalities (significant effects of one individual's actions on others that he or she disregards) must be absent. An example is the shipping of immature fruit early in the season, which may give

the producer or shipper a quick profit, but spoils the reputation of the product with consumers and harms later shippers.

Imbalances in market power are another reason for market failure. They arise when one shipper or processor is able to dominate price determination because of size or volume. Government involvement in markets may be indicated if the distribution of income would otherwise be inappropriate. Fruit and vegetable markets exhibit some of these problems.

Order Provisions

Marketing order provisions fall into three major categories: quality control, quantity control, and market support. Some form of quality control--grade, size, or maturity standards--applies to crops marketed under all but one of the 47 orders. Quality regulations assure buyers that products offered for sale are acceptable. These regulations help promote and protect the reputation of a production area. However, minimum quality standards can be a weak form of supply control if set so high as to exclude products that buyers would find acceptable.

Thirteen of the commodities regulated by marketing orders are covered by a provision that requires imported produce to meet quality requirements equivalent to domestic produce. Order critics say this may force imported produce to meet unrealistic standards and reduce competition.

Direct quantity control provisions have the greatest potential for price enhancement and imposing resource misallocation. Only 24 of the 47 orders have such provisions. Five have shipping holidays only, the mildest form of supply management.

Two major types of quantity control are those that manage total volume for the season and those that control weekly flow to market. Producer allotments that limit the quantities individual producers can market are one of the strongest forms of quantity control. Producer allotments are authorized only for hops, spearmint oil, Florida celery, and cranberries.

Market allocation provisions are included in six marketing orders. They apply to shippers and permit limitation of sales in a primary market (domestic, fresh), with the remainder moved to a secondary market (exports, processed). Market allocation may enhance prices to growers if required conditions are met.

Seven orders have reserve pool provisions that function similarly to market allocation provisions by restricting sales to the primary market and holding the remainder in a "set-aside"

or reserve pool. The reserve may be returned to the primary market later because of a short crop or eventually diverted to a secondary market.

Handler prorates and shipping holidays regulate market flow within a season. Five orders have only prorates, five have only shipping holidays, and four have both. Market flow regulations attempt to even out within-season gluts and shortages and corresponding low and high prices. Shipping holidays are used to limit the buildup of supplies in markets during periods of minimum trade activity (holidays). Prorates limit the volume a handler can ship during specific time periods, usually by week. Season-long use of prorates may divert fruit eligible for domestic fresh use into secondary outlets, much like market allocation provisions.

Market support activities are employed by many of the orders. Standardization of containers and packs to promote uniformity in packaging, handler assessments for research on production or marketing, and assessments for promotion and advertising are included as market support activities. In addition, considerable market information is generated through order operations.

Effects of Orders

In conducting the review, we examined the effects of marketing orders on economic efficiency, distribution of income, entrepreneurial independence, and number and size of farms. Economic efficiency is valued by most of society and is potentially amenable to cost-benefit analysis. But differences of opinion are strong about how income should be distributed and the importance of entrepreneurial independence and maintaining small farms. Consequently, no useful purposes would have been served by attempting to combine these performance indicators into a single measure of costs and benefits.

Economic efficiency involves using resources in a way that maximizes the well-being of society. In an efficient economic system, waste is absent. Each input or product is used where its value to society is maximized. A free market is efficient in this sense if, among other requirements, many buyers and sellers have perfect information. Of course, imperfect information, coupled with abrupt changes in yields and relatively small numbers of handlers and processors, characterizes agriculture.

Government marketing programs are employed to overcome or offset these conditions. But marketing orders have side effects that reduce efficiency. For example, marketing allotments divert resources away from production of the commodity under the order. Market allocation provisions tend

to draw more inputs into production of the covered commodity than is desirable.

Assessing the effects of orders involves weighing these losses from resource misallocation against potential gains. Efficiency gains arise from greater seasonal and intraseasonal stability of producer prices and incomes, improved quality assurance for buyers, reduced trading costs, greater amounts of yield-increasing and cost-reducing research, and increased quantity and availability of marketing information. Marketing orders can cause misallocation of resources, restricted firm growth, reduced price competition, and smaller ranges of quality choice for consumers. Other reductions in efficiency may arise from diversion of wholesome food to nonfood use, restriction of handling and packaging innovations, and insufficient trade flows. Many of these effects cannot be quantified, so the net effect of orders on efficiency or welfare remains uncertain.

Income is shifted from consumers to growers in the short run by orders that reduce quantities marketed or successfully discriminate among markets. But over the long run, this effect is dissipated, because any increase in returns above "normal" levels stimulates increased production. The major exceptions are the few marketing allotment programs that bar or greatly restrict entry. Owners of these allotments may obtain continuing higher returns, which would be reflected in the values of the allotments. But the returns earned by new growers who must buy allotments are essentially the same as would prevail without the order.

Growers' incomes will be increased over the long term if their land and other resources are uniquely suited for producing a crop for which total demand is increased by a marketing order. However, this effect is relatively unimportant, because additional land usually can be brought into production without greatly increasing unit costs.

The freedom of individual growers and handlers to manage their businesses as they see fit is reduced by marketing orders. This element of freedom is relinquished willingly by the majority of growers who vote for marketing orders, but some oppose order restrictions.

Definitive evidence concerning the effects of marketing orders on farm size is lacking. Orders that have producer allotments, market allocation provisions, or continuous prorates probably help some small growers survive who might otherwise leave the industry. Orders that establish grade, size, and maturity standards also may help small growers

compete with large ones who might be better equipped to sell on a basis of brand image.

Order Options

Because marketing orders have both positive and negative effects on economic efficiency and other goals of society, the question arises: What alternatives are available and how do they measure up?

We considered four major options: continue marketing orders as they are, eliminate marketing orders without substituting new Federal programs, replace marketing orders with other programs designed to overcome some of the same problems, and modify marketing orders to avoid some of their undesirable effects and strengthen the desired effects.

Continuing marketing orders simply would extend into the future the effects already noted. Eliminating orders would mean these effects would be absent in the long run. However, sudden termination would have some shortrun effects that deserve attention. Gradual change might be preferred to sudden change to facilitate industry adjustments. Some of the functions performed by the Federal programs might be taken over by cooperatives, State marketing orders, and other State and Federal regulations.

Where quantity controls have been binding, as in hops and navel oranges, termination would pose adjustment problems. Producers' incomes would be depressed temporarily until output was adjusted. Growers with allotments would suffer losses in the value of the allotments. Growers who have recently entered the business or enlarged their operations and carry heavy debt loads could be forced out of business.

Many problems dealt with by marketing orders could be addressed by other programs. Possible programs to overcome imbalances in marketing power include support of cooperatives, farmer bargaining, and marketing boards.

Some type of regular Federal target price and direct payment program, acreage controls, or even price support and storage for storable commodities might be considered. Support of fruit and vegetable prices by special Government purchases could be expanded. However, price support programs generally are difficult to administer without running into high costs or surplus disposal problems.

The information provided to growers and handlers through marketing orders might be supplied through Government reporting. Research and promotion activities could be supported by the fruit and vegetable industries through

legislation authorizing checkoff programs such as now exist for cotton, eggs, potatoes, and wheat products.

Could the provisions of marketing orders be modified or their use controlled to increase the positive effects and lessen the negative effects? For example, could stabilization benefits be achieved or maintained while reducing distortions in resource use imposed by the allotment and market allocation provisions?

One possibility would be to require the total industry allotment to be increased regularly and systematically until the market value of allotments approached zero. Similarly, the percentage allocation or prorate going to the primary market could be increased systematically. Alternatively, application of prorates might be limited to only part of the season as in the Florida prorate programs, thus limiting the ability of the order to constrain total quantity going to the fresh market.

Several possibilities were identified for making marketing order administration more responsive to growers' and consumers' concerns. These include changing voting rules for referenda and adding more nonindustry representatives to administrative committees. USDA's ability to assure marketing order actions are in the public interest also could be strengthened. Its role in protecting consumers needs to be clarified. The parity price criterion in the act could be replaced with a more meaningful measure of producers' well-being. Establishing and publishing specific guidelines and criteria used to evaluate proposed changes would inform a wider audience on the process. An interagency panel might be used to review and approve administrative regulations.

We found marketing orders seem to fill a real need in the fruit and vegetable industry, but they can be misused. In each case, the effects depend on the provisions of the order and the conditions under which it operates.

MARKETING ORDERS REASSESSED

Kalem H. Barserian
General Manager
Raisin Bargaining Association

When a task force was appointed to study marketing orders, we were hoping they would get some grassroots people who understood a little more about crop farming. But they were basically economists.

We think time tested marketing orders have proved farmers and consumers are responsible. No enhancement charges have been found against any of the commodities. You can look and find fault with anything based on the way it is written or the way it's administered.

We were upset this week because of a meeting in Washington of marketing order managers and board chairmen. We were not allowed to come in. Other people in the industry, experts who have been in this thing and who have been on both sides for a long time, were not invited to voice their opinions.

We were told that before the guidelines would be issued there would be a chance for some dialogue and input from the marketing order groups themselves. That did not happen. We were reassured today by Bill McMillan these guidelines are going to be to our benefit, and, hopefully, in the next years of the Administration we won't have another investigation with the same result of our having to defend ourselves.

Marketing orders have been time tested; they're voluntary. You talk about target prices and things that haven't worked in other commodities; and we're going to do it in specialty crops? Fruits and vegetables are specialty crops. We neither have control over what we produce from year to year nor the export market. The raisin, peach, and pear industries just filed an action against the European Economic Community (EEC) for subsidizing farmers in those 10 member countries at prices below half or less than half of what growers are getting in those countries, completely eliminating us from selling into long historical markets. Greece entered the common market in January 1981 with a high price. The minute Greece entered the community, it dropped its higher price to a point below ours.

In 4 months of this marketing year, we lost 57 percent of our shipments into EEC. Without the marketing order, and because of the supply and demand to regulate what happens in the

marketplace, we would have had a really depressed situation. We do have an ample supply of raisins. But with the marketing order, we were able to siphon off some of the excess to stay stable and to get through it.

But our Government or Administration says its going to defend the export market and try to eliminate subsidies. The Administration did hear us. We were one of the first commodity groups to get an agency hearing from the Cabinet. And now it's up to the Administration to go to Brussels and try to do what it can to knock out subsidies. The marketing order has leveled out the peaks and valleys. It has provided stability to farmers and good prices for consumers.

Russ Hanlin discussed the navel orange situation, and why each week the marketing order board needs to talk about the flow to market. Both the chairman of the board, David Kline, and Hanlin said that week to week they do not know what the marketplace demand is going to be for oranges. Therefore, one week the board had to reconvene and increase the number of cars needed to be shipped.

The marketing order has been beneficial. We talked about low prices in the 1930's. If we didn't have low prices today, we wouldn't have seen the large attendance at the National Council meeting. I want to thank the National Council for taking an interest and battling on marketing orders with us.

We have gone through this many times. The players sometimes are the same ones that are investigating us. They seem to be in Government and move from one area to another. The minute we hear we are going to be investigated again, feathers really get ruffled. We just hope that this is going to be the last investigation of marketing orders for a long time to come.

DOMESTIC MARKETING ISSUES AND POLICIES

C. W. McMillan
Assistant Secretary for Marketing
and Inspection Services
U.S. Department of Agriculture

There is always change, constant change. We in agriculture are, in my judgment, the most dynamic industry in the United States. You can take any element in agriculture and get various dynamic degrees of change but the important thing is that agriculture is constantly changing.

We think there's time for self-examination and change, or maybe no change when it comes to marketing orders. A program cited for review by the Vice President's Task Force on Regulatory Review was fruit and vegetable marketing orders, and later dairy marketing orders were targeted in the regulatory sense. We can argue back and forth that in effect marketing orders aren't regulatory in nature. But the fact remains, they were put on the target list. The Department of Agriculture went to the Office of Management and Budget where the Vice President's regulatory review task force was located. We said we'd do an economic study, and that was done. You may or may not like certain parts of the economic study, but I think on balance it was a good one.

Then comes the question of the guidelines we're following within the framework of the regulatory review group. I guess there's some controversy related to these, but that's to be expected. Maybe it's the fear of change, the unknown, that bothers most folks when you come right down to it. Anytime there's even some ripple of change, it causes concern, and that's where we are right now. At least, I think we were there earlier this week, but we've made progress with better understanding during the course of the week.

At this point, we are looking at various fruit and vegetable marketing orders and later at dairy marketing orders. The fact remains, each marketing order is going to be reviewed individually with the marketing order advisory committees. It is entirely conceivable that most are not going to have any major change or maybe no change in how they are operating, although some will. But I guess that it's fear of change and the implied comments, or taking statements out of context, that bother people more than anything else.

Our intent is not to gut marketing orders. Those who read Ward Sinclair on the financial page in the Washington Post

this morning know he's not any particular friend of agriculture on most issues. Nevertheless, United States Department of Agriculture is his beat. He is quoting Secretary Block on the question of marketing orders and points out the Administration is pro marketing order and pro cooperative, and that's where we are coming from in this whole issue. I know that is part of your concern in the National Bargaining Association.

Many of you do, in fact, deal with marketing orders in given locales. I know there is concern on your part for what happens, but let me leave you with this thought--we're approaching it in the most objective, positive way we can, predicated on the individual marketing orders that are at stake here. It could be that no change will be made at all.

Within the framework of the Agricultural Marketing Agreements Act of 1937, we have statutory bases that we must operate under. We have certain authority we can't go beyond. We can make regulations or we can make rules, but it all has to be within the framework of the law. And when that law passed, those guys knew what they were doing. You couldn't get a similar law passed today for love or money. You couldn't get Capper-Volstead through Congress in the form it's in right now, because the political climate of the United States has changed. It's within that framework that we look at the marketing order issue.

Marketing orders have friends and enemies, with few people in between. They're either for 'em or agin' 'em. Some people who are not pro marketing order are free market oriented. I classify them as classical economists. These economists really don't like marketing orders, because they don't want any involvement of Federal Government whatsoever. They consider marketing orders Federal Government involvement, even though they're self-help--you and I agree on that; therefore, because of this involvement, they are not necessarily operative in the free market system.

You can put those folks on the con side, the against side, of marketing orders. You also have what I consider an uneducated or not interested group in the consumer activist realm in the same context. They think marketing orders are designed strictly for producers to get the highest possible price with no concern whatsoever for the ultimate consumers. You and I know that's wrong, but, nevertheless, that element does believe it. What we have attempted in this Administration is to strike a middle ground between extremists on either side to preserve the issue of marketing orders and approach them in the best possible way.

I also know that your association is vitally interested in legislation Congressman Panetta has introduced. It has been introduced in prior times, and it's considerably different from legislation that was introduced years ago when I was with Cattlemen's Association. We don't have a position on the Panetta Bill as yet. When hearings are held, we're going to have to express ourselves, and I don't know where we're going to come down. I will say that I fully appreciate and understand the intent and the thrust of the legislation. But this is my personal viewpoint, not the Administration's, and plenty of tools can be used even now.

I am much impressed, as I become acquainted with more people in specific commodity areas, with the tremendous job that has been done in the bargaining area. Most of it has been done with good, hard sweat, hard work, and dedication. You've accomplished a great deal.

The Capper-Volstead Act does provide tools that can, should, and will be used. Until, or when, legislation like the Panetta Bill becomes law, I recommend that the Capper-Volstead Act be used to the ultimate in every way possible. Some people don't like the Capper-Volstead Act, but again, they tend to fall into the classical economist category.

Some think because there is a Sherman Antitrust Act or a Clayton Act, agriculture has an unfair advantage through the Capper-Volstead Act in negotiating on such things as price. Well, I think it's fair, because agriculture is different. When you stop and think of the number of individual producers and entrepreneurs scattered around the country, with all the climatic differences that do exist--the commodity differences, the nonirrigated versus the irrigated, you could go on and on--agriculture is different. As such, I think it is perfectly justified that such things as Capper-Volstead Act are on the books. These are tools everyone in agriculture should take advantage of, whether we're talking about farm bargaining, operating a cooperative in competition with a corporation, or use of the Farm Credit System, you name it. Agriculture is sufficiently different that we need to preserve and keep the Capper-Volstead Act. Because of the individual initiative that's associated with it, we need to keep it operative and take advantage of it even more than we have to date.

INTERNATIONAL MARKETING ISSUES AND POLICIES

Donald M. Nelson
Assistant U.S. Trade Representative
for Agricultural Affairs and Commodity Policy
Office of the U.S. Trade Representative

The American consumer is accustomed to cheap food, and I think the policies Government has followed over the years indicate the declining influence of the farm community. In policies followed by some of our trading partners--Japanese, European Community, Swiss--you see the protection afforded their farmers is much greater than we have had.

In those countries, the consumer is accustomed to paying a far greater percentage of income for food. It is something that goes back over generations and has mitigated against these countries having an active consumer movement of the type that came to the forefront here back in the 1960's and 1970's.

We have a few import quotas and a few other restrictions such as in the dairy area, sugar, and one or two other minor commodities. But they really pale by comparison when you look at those our trading partners maintain. Protectionism is something we've heard about for a long time. A number of economists and political scientists think the Great Depression was attributable, in part, to drying up trade resulting from adoption of the Hawley-Smoot Tariff by Congress in 1930.

That tariff had the effect of closing our markets to imports from other countries. Factories went out of business. People were unemployed. They were unable to buy products from us and other countries. It was a downward spiral in which a lot of economies just went under, literally. Those same political scientists think the rise of the militarist governments in Italy, Germany, and Japan were, in part, attributable to the economic malaise in these countries. People were looking for anyone who could promise them a way out of their economic problems.

If you follow that kind of reasoning, and I think there is some merit to it, you would come to believe World War II was attributable to protectionism. Based on concerns that this might be repeated, international trading rules and an international trade organization were adopted, called the General Agreement on Tariffs and Trade (GATT). Basically, it was founded on the belief that to avoid the downward spiral in the economies and the upward spiral in the conflicts in the 1930's and 1940's, an open trading system was necessary.

I'm afraid we are facing a rising tide of protectionism in this country that's going to rebound to our detriment. Late last year, the Senate approved a bill that dealt with telecommunications. A provision said no one could sell these particular products in the United States unless the market in his or her country was open for sale of products of a similar type from the United States. Initially, this type of reciprocity had a certain gut appeal. It's a matter of equity.

As an economist, I believe in the theory of comparative advantage, which says if someone can produce a better product at a lower price, I should stop, let him produce it, and buy it from him or her. At the same time, I should be free to produce what I produce best at lower cost and sell to him or her. It's a nice theory, but we all know it falls down in the last part. We're the world's most efficient producer of a host of products, particularly in the agricultural sector. Yet, a number of markets in which we could sell are closed.

About 10 months ago, Congress pondered legislation to limit the number of Japanese automobiles that could be imported into the United States. In Washington and other cities, a full-page newspaper advertisement said closing U.S. markets to Japanese automobile imports would deprive American consumers of the right to free choice. It showed why it was good for the American economy and healthy for American industries to have this kind of competition.

We did not impose any real restrictions on the importation of Japanese automobiles. Shortly after that, I was in Tokyo, talked to some of my contemporaries in the Japanese Government, and asked why they didn't allow additional access to our exports of citrus and beef or lower the markup on wheat so it was competitive with rice.

They said I really didn't understand the situation and their severe political problems.

I don't know how many of you saw the movie "Network." The protagonist was a TV commentator, and he developed this sort of cry--"I've had enough, I'm not going to take it anymore." I'm afraid that thousands and millions of us are beginning to feel we've had enough of the policies maintained by some of our trading partners. I think the kind of feeling that's building up on trading policies is going to lead us into taking retaliatory actions. It's not going to be good for all of us.

I would be less than candid if I didn't admit that we're at fault for some of the practices we are now encountering. I

mentioned there was a belief that economic problems had led to World War II and the way to avoid them in the future was to have a free trading system in which the laws of comparative advantage would be allowed to work. Because of the belief that a healthy Japan and Western Europe would be good for us in a defense alliance and provide a bulwark against an incursion from the East, we allowed access to our market for a lot of products from those countries without asking reciprocity in return. Initially, they were industrial and later agricultural products. This is what I term trading off our economic advantage for vague geopolitical gains.

When the European Community was formed, it again was felt that the formation of a trade bloc would be to everyone's economic and political advantage. We accepted their common agricultural policy, which came to be a lot more than anyone anticipated.

At the end of a recent conference with wheat growers, a gentleman from the United Kingdom said governments all over the world owed farmers a living, indicating we should not complain about what the European Community provides in the way of supports for its farmers.

Michigan State University studied the effects of some European export subsidies, particularly wheat and wheat flour. It found the additional income to U.S. wheat farmers in many years could be as much as 25 to 50 cents a bushel more, if it were not for the policies of the European Community. If EEC is carrying on policies that affect only its own people and have no trade effect on us either in closing markets or displacing us in Third World markets, we have no legitimate complaint. But when it costs the American farmer 25 to 50 cents a bushel, we have a legitimate complaint. When EEC policies distort the market in the European Community for canned fruit, raisins, poultry, or other products, we have a legitimate right to pursue those complaints in GATT, the international trading organization.

The trade ministers of four countries met in Key Biscayne, Fla., recently to discuss a number of trade issues. Bill Brock, the U.S. trade representative, told the Japanese of the feeling building up in the United States. We were neither asking for a favor from the Japanese nor asking them to give us access to a market as a favor. We paid for that. They have assumed international obligations, and we have a right to be in that market and intend to exercise that right.

While it may look as if strict reciprocity is good, we have paid for concessions over a period of years. We've gotten concessions on wine, for instance, in return for access for

poultry in certain markets. We have traded one commodity for another, so it would be dangerous to get into a practice of strict reciprocity. I think a practice of retaliating against other countries would open up the opportunity for them to retaliate against us, causing another downward spiral of protectionism and drying up of economies.

BARGAINING ASSOCIATION-COOPERATIVE PROCESSOR RELATIONSHIPS

Compton Chase-Lansdale
Ferguson, Bryan & Associates

The marketing system for fruits and vegetables for processing has undergone rapid structural change as cooperatives have absorbed larger shares of marketing activities and noncooperatives have sold or terminated operations. The question before the remaining participants in this marketing system is whether alternatives exist. I think they do, but only if industry participants adopt an orientation that faces current trends.

I would like to outline two alternatives by suggesting an analogy with negotiations between the United Auto Workers (UAW) and automobile manufacturers. These negotiations are characterized by recognition of competition from Japan, offers of price concessions, and use of positions on boards of directors.

As the UAW has done, I suggest associations consider pricing structures that ease the competitive situation encountered in selling processed products and use channels of influence with the cooperative sector to ensure cooperative management is rewarded for performance consistent with patron interests.

I would like to offer an overview of the market structure, describing the fruit and vegetable processing industry, nationally, and in selected States. My data and comments are based on a 2-year research project of 14 bargaining associations, 25 cooperative processors, and 18 noncooperative processors in 8 States.

Overview of Market Structure

The role of bargaining associations is significant and widespread. Thirteen States have bargaining activity in 33 different fruits and vegetables. Fifty-five separate bargaining efforts are taking place for a total raw product value exceeding \$1 billion.

Noncooperative processors are declining in numbers and market shares. Between 1966 and 1977, the number of processors declined 26 percent. This trend continues.

The cooperative processing sector is significant and increasing. At the latest count, 16 States accounted for 67

cooperatives processing 30 different commodities. The number of cooperatives during the 1970's increased 35 percent.

Specific data from several States reflect these national trends. Here is market share data from selected States: California bargaining associations represent more than 40 percent of the volume marketed for apricots, cling peaches, canning pears, tomatoes, and raisins. Cooperative processors have more than 40 percent of the volume processed, and this share is increasing. Though only 25 percent of the tomato crop is cooperatively processed, this share also is increasing. Conversely, the noncooperative processor market share, though substantial, is declining.

The overlap between associations and cooperatives in the Northwest is not as dramatic as in California, but these conditions hold. In crops with bargaining, bargaining associations represent 50 percent or more of the volume marketed. The cooperative processor market share is substantial in several crops. The noncooperative processor market share is declining.

In Michigan, bargaining associations represent more than 60 percent of the volume marketed in tart cherries, apples, and asparagus. Cooperative processors represent large market shares (from 25 to 45 percent), and the trend is upward. Market shares of noncooperatives are declining as they exit from processing.

These conditions indicate cash volume is declining, cooperative processors are replacing noncooperatives, and the existence of the noncooperative processing sector is threatened. The importance of these changes is significant.

Pricing decisions made by bargaining associations are increasingly significant for the remaining noncooperative processors. Noncooperative processor resources are being freed. Costs and control of processing are being transferred to new owners. Through growth of cooperative processors, growers are assuming costs and control of processing.

The cooperative processing sector has become an important factor influencing competitive conditions in the processing industry and the survival of noncooperative processors. Such changes are man made and can be "unmade."

UAW Example

By invoking the model of the United Auto Workers (UAW), bargaining associations should take the offensive and try to improve their buyers' performance and ultimate survival. Bargaining associations should introduce changes in the processing industry to improve the competitiveness of processors.

Raw produce Prices

Bargain Target Price. Associations could bargain a target price with noncooperative processors of which a certain percentage, say 60 percent, would be paid at delivery.

Determine Direction of Adjustment. After cooperative patronage levels become known, the remaining 40 percent would be adjusted down or up based on how cooperative patronage compares with the target price. If patronage exceeds the target price, the balance due growers would be more than 40 percent. If patronage is less than the bargained price, the balance due growers would be less than 40 percent.

Calculate Adjusted Balance Due. The adjusted balance due growers if patronage either exceeds or falls short of the target price would be calculated as follows: The difference between the target price and cooperative patronage would be established. If patronage equals the target price, the balance due growers would be 40 percent. If patronage is less than the target price, the balance due growers would be adjusted by the difference weighted by an indicator of cooperative performance or by cooperative market share.

For example, if patronage is 90 percent (10 percent less than target price) and the cooperative market share is 50 percent, the balance due growers would be 35 percent of target price (40 percent less 10 percent times 50 percent). Similarly, patronage equal to 110 percent of the target price would result in a balance due growers of 45 percent of the target price.

The precise adjustment scheme would be determined through bargaining with noncooperative processors. Moreover, it could be tailored to individual processor's need to share upside and downside risk.

An adjustable bargained price system such as this still would provide incentives for noncooperative processors to maximize the return on investment and outperform cooperative competitors. However, this system would reduce competitive pressure from the competing cooperative sector, which enjoys different raw product procurement costs.

Noncooperative processor antagonism toward bargaining associations would be reduced, pressure on noncooperative processors to close operations would be reduced, the trend toward the transfer of costs and control of processing would be lessened, and growers would be less likely to be forced to vertically integrate into processing.

Such results behoove bargaining associations and noncooperative processors to consider the case for bargaining adjustable raw produce prices.

Reward Management

Bargaining associations could work with cooperatives to design reward systems for cooperative management that provide incentives to earn the maximum surplus above a set raw produce price. This system would concentrate management attention on improving returns to the cooperative within a clearly prescribed set of constraints. The result would be management performance that is easier to reward and evaluate against industry competitors.

The reason such a relationship between associations and cooperatives would be possible is that several bargaining associations already have developed channels of communication with cooperative managements and boards of directors.

Due to the phenomenon of growers belonging simultaneously to a bargaining association and a cooperative, a channel of communication already exists. In California, I estimate dual membership as a percentage of raw product marketed to be: apricots, 25-30 percent; cling peaches, 25 percent; canning pears, 40 percent; and tomatoes, 20 percent. In Michigan, these dual memberships are estimated to be: tart cherries, 30 percent; asparagus, 15 percent; and apples, 15 percent.

Management of cooperative processors is interested in, and often sensitive to, bargained prices. This is largely due to the use of bargained prices as a measure of cooperative performance. Where such measurement exists, bargained prices become a target for cooperative management.

Given that condition in the industry, the next step is to use the relationship creatively to ensure cooperative management is directed adequately and well rewarded for strong performance.

Bargaining associations could use their access to cooperative management to introduce comparative information on the performance of competitors in such areas as delivery conditions, levels of patronage, and discontinued present value of patronage. Comparative information would assist cooperative management in assessing its own performance.

Bargaining associations could use their relationship with cooperatives to promote discussion of the reasons for weak and strong product performance in pools established by management. This would assist management in getting patrons to address product-specific problems in assembling, processing, and marketing.

Bargaining associations could discuss demand and supply conditions with cooperative management to enhance the economic justification for proposed bargained price levels. This discussion might be conducted within advisory councils consisting of representatives from the industry.

Bargaining associations could assist cooperative boards in developing reward systems for management based on surplus earned above set raw product values.

Each of these suggestions introduces evaluation at either the internal management or industry level. The worth of such evaluation depends on ensuing results. An active relationship between bargaining associations and cooperative processors could produce worthwhile results.

Given the introduction of increased information with which to evaluate management performance, patrons of cooperatives would be able to accurately tie bonuses to management success.

As a close relationship with bargaining associations assists cooperative management in using bargained prices to determine raw product procurement costs, cooperatives compete on a basis more similar to noncooperative competitors who pay bargained prices.

As bargaining associations highlight the comparative performance of individual cooperatives against the rest of the industry, cooperative management may choose to alter raw product procurement procedures by introducing tools used in the noncooperative sector to control volume and quality of product delivered.

Other responses also may result as cooperative patrons and management adjust to an active relationship with bargaining associations.

Bargaining association members are served by resulting improvements in the survival of noncooperative processors as buyers of their products. Noncooperative processors are served as their competitiveness is enhanced. Patrons of cooperative processors are better served, as cooperative management operates with better performance guidelines and introduces management control techniques warranted by industry characteristics.

Bargaining associations can be dynamic, innovative forces in their industries. However, they must begin with recognition of trends and respond with alternatives that adjust to changing patterns of ownership and control.

WHAT'S HAPPENING IN THE CALIFORNIA CANNING INDUSTRY?

Cameron Girton
Manager
California Canning Pear Association

If I were required to describe our canning industry in one word, it would be "change," and recent events would cause me to add the word dramatic change. The first event of significance that comes to mind is the change in the name of Cannery League of California to California League of Food Processors. We no longer have canners--we have food processors. However, I trust you will allow me the privilege of continuing to call them canners.

I have had the opportunity to observe the California canning industry for the past 35 years, 29 of which I have served as manager of the California Canning Pear Association. The canning industry makes up an important part of the total California agricultural industry, which, I might add, is its most important industry.

California leads the Nation in the canning or processing of tomatoes, cling peaches, fruit cocktail, apricots, and olives. Pears, of course, are an important ingredient in fruit cocktail and also an important pack produced in our State. Thirty years ago, there were 26 canners processing pears, and even more involved in cling peaches and tomatoes. Tomatoes and cling peaches have been our two major canning commodities. Of the 26 who were purchasing pears, 8 were advertised brands--Beech-Nut; Del Monte; Dole; Gerber; Heinz; Hunt Foods; Libby, McNeill, and Libby; and Stokely Van Camp. Two were processing cooperatives, Turlock Cooperative Growers and Tri-Valley Packing Company, and the remaining 16 were independent, and in most cases, family-owned noncooperative canners. Obviously, noncooperative canners were the major buyers of our fruits and vegetables.

In 1958, we saw the first major change in the number and makeup of California canners. Led by the California Canning Peach Association, the pear, and other bargaining associations, a new cooperative was formed. This new group, known as California Canners, purchased two commercial canneries, Filice & Parelli and Richmond Chase. Later, two more noncooperative canneries were purchased, the Thornton Canning Company and San Jose Canning Company.

After the development of Cal Can, Tri-Valley Packing Company and Turlock Cooperative Growers merged to form Tri-Valley Growers and added the Joan of Arc Canning Company and Oberti Olives. Tri-Valley then constructed one of the larger and more modern fruit-canning plants in the country and has since acquired the S&W food line and Glorietta Foods, a cooperative descended from Nation Canning Company.

The 1960's saw the creation of a new processing cooperative. When United States Processing Company (USP) closed its doors, growers who supplied USP formed Pacific Coast Producers. After negotiations for the purchase of USP facilities fell through, the new cooperative purchased Stokely Van Camp's California plants.

Today, there are considerably fewer canners. Cooperative canners are increasing their importance and share of the market, while noncooperative canners are decreasing in number and business volume.

This was the first major change in the California canning industry. Another was the appearance of large corporations with many holdings of diverse activities known as conglomerates. Nestle's acquired Libby, McNeill, and Libby; Ogden purchased Tillie Lewis Foods; Borden selected Bercut Richards Packing Company; Carnation went for Contadina; Squibb purchased Beech Nut; and the R.J. Reynolds Tobacco Company purchased Del Monte.

The 1960's appeared to be the decade of merger but, unfortunately, like all marriages, many proved unsuccessful. Corporate giants, which, for the most part, represented hungry stockholders, soon found returns from the canning business were less than desired. Soon, we saw the annulment of many acquisitions. Borden chose to dispose of Bercut-Richards; Squibb sold the Beech Nut canning operations; Contadina closed its San Jose fruit plants; Del Monte sold its Granny Goose potato chip operations and Alaskan Packers and closed several West Coast canneries.

In a most dramatic situation, Libby, McNeill, and Libby announced the following:

Libby, McNeill, and Libby, Inc., signed agreements with California Canners and Growers (Cal Can), a San Francisco cooperative, for the purchase of Libby's canned fruit operations in the United States and with S.S. Pierce Company, Inc., of Dundee, New York, a noncooperative firm, for the purchase of Libby's domestic canned vegetable operations in the United States. Both Cal Can and S.S. Pierce have the right to use the Libby Trademark in the United States under

license from Libby, McNeill, & Libby. Cal Can will market the Libby and Libby's Lite lines of canned fruit products.

The third change in our canning industry directly affects bargaining associations in California. Processing cooperatives traditionally have recognized what has been negotiated by the bargaining association with a majority of the noncooperative canners as the market price and terms for a commodity. If no bargaining association was involved, they used the price noncooperative canners were paying. Recent developments where we saw noncooperative canners paying different prices for a commodity have caused processing cooperatives to take another look at this policy.

At Tri-Valley Growers' recent annual meeting, James J. Saras, chairman of the board, commented on establishment of commodity prices.

"Tri-Valley Growers packs all commodities under the single pool concept, allocating the revenues to the different commodities based on cash prices paid by other processors. Tri-Valley has followed what is commonly known as the "mode method," whereby it has paid the majority price visible in the field and in a sense ignored minority prices.

"This methodology has functioned well over the years for most of the commodities, because there were several cash buyers for the raw products. We developed an arm's length, truly representative field price reflecting the ultimate market value of the commodity. Within the single pool concept, it is paramount that the value placed on each commodity for purposes of pool allocation represent the true value it has in the marketplace. Otherwise, it would be unfair to the growers of the commodity if the established value was too low and unfair to the balance of the pool if the established value was too high.

"Serious doubts have been developing as to whether the historical methods of discovering established value are functioning properly. The reasons for concern--a dramatic reduction in the number of fruit canners, casting doubt on whether field prices paid represent market values and loss of enthusiasm by processors due to low or nonexistent profitability. The latter results in reduced capital budgets, which cause operational inefficiencies and force low field prices.

Other concerns include strong bargaining associations able to negotiate prices higher than justified; weak, fledgling, or nonexistent bargaining associations; nebulous visible field prices due to profit sharing, formula pricing, delayed

payment, etc.; and raw product prices in geographical areas differing from ours that compete with us in the marketplace.

"In a single pool cooperative adhering to the principle of fairness, it is critical that established values reflect the marketing and operational capabilities of Tri-Valley Growers for each of its commodities. For these reasons, we announced a year ago that we would no longer be bound by the "mode method" of establishing prices to allow flexibility to adjust field prices if deemed necessary. It is important that the membership have confidence in the methods used to allocate pool returns. If not, and the membership becomes agitated, you may hear requests for separate pools."

EXCLUSIVE AGENCY BARGAINING

Leslie F. Lamb
Wisconsin Department of Agriculture,
Trade, and Consumer Protection

About a year ago, a bill was introduced in the Wisconsin legislature to provide farmers with an opportunity to engage in exclusive agency bargaining. Patterned after Michigan's bargaining law, the bill received mixed reactions from our agricultural community. The chairman of the Senate Agriculture and Natural Resources Committee asked our board to evaluate it, and the procedures used may be useful to other States considering similar legislation.

At first, we were confronted with a problem: estimating how quickly the program would grow if the law were enacted and the annual cost to the State. As we tried to determine the fiscal effect of the proposed legislation and which commodity groups might use such a law, we developed a simple and objective method of analysis.

Wisconsin produces 35 major agricultural commodities. Of these, Grade A milk, eggs, turkeys and broilers, field crops (except tobacco), fresh fruits and vegetables, and specialty crops were excluded initially from the analysis for the following reasons:

- o For grade A milk, in addition to Federal milk marketing orders, a highly sophisticated and integrated marketing structure influenced by large cooperative handlers, bargaining associations, and marketing agencies-in-common already exists in this market.
- o Most egg production moves through specialized marketing channels directly from farms to retailers.
- o With respect to poultry, these commodities were dominated by single handlers (noncooperative for turkeys and cooperative for broilers). It was difficult to assess the need for exclusive agency bargaining among farmers raising turkeys. Most broilers and culled hens would be exempt from bargaining.
- o Large quantities of feed grains and hay are used on farms. Recent market analysis shows more than half of off-farm sales of corn moves directly from farms to terminal elevators. Of the amount sold to country elevators, cooperatives receive about half. Therefore, less than one-fourth of commercial

corn sales would be eligible for exclusive agency bargaining. Similar patterns prevail in soybean marketing.

o Most fruit and vegetables sold fresh from farms move directly to retail (through roadside markets and farmer markets), to trucker-brokers, and/or to terminal markets. Exclusive agency bargaining is poorly suited to these marketing patterns.

o Crops such as mint, honey, maple products, wool, and mink were difficult to analyze because of a lack of certain handler information.

For each of the remaining 16 commodities, certain data were compiled for an 11-year period beginning 1970. We included information relating to farm numbers, the number of handlers, production, deflated prices, and combined volumes of the top four handlers. From this information, we could derive average volume per farmer and average volume per handler. In addition, we estimated the State proportion to U.S. production and graphically depicted areas of production concentration. Each of these pieces of information provided us with an excellent overview of market attributes for each commodity. Six criteria were developed to apportion these market attributes.

Combined volumes of the top four handlers were divided by total commodity production to estimate handler concentration, which in turn provided some measure of relative bargaining strength. High-volume concentrations among top handlers indicated individual farmers may be subject to poor market performance, a situation that might be corrected by exclusive agency bargaining.

A measure of alternative outlets (handlers) for producers of each commodity was developed. This measure depended on the number of competing handlers within any area and not on the size of alternative handlers. A low measure of alternative outlets generally leaves individual farmers with little choice among possible buyers without incurring high transportation costs.

Prices were examined over time to determine if they were relatively stable, increasing or decreasing, or generally unstable. To permit comparisons between years, prices were deflated. Unstable, volatile, or decreasing real prices indicated poor market performance for farmers that may be offset by exclusive agency bargaining.

Geographic concentration of production gave some indication of how successful exclusive agency bargaining might be in

correcting poor market performance. Low production concentration would be costly to any single bargaining association. If there were more than one association, a fragmented bargaining process could lead to regional differences and possible inequities.

The presence of cooperative handlers providing an alternative outlet to farmers and volume concentration reduces the effectiveness of exclusive agency bargaining, because cooperative handlers would be exempt from bargaining in good faith with their members. A high presence of cooperative handlers would indicate a particular commodity is poorly suited for exclusive agency bargaining.

A high or even moderate proportion of total production moving to handlers in other States also would indicate a particular crop is suited poorly for exclusive agency bargaining. Interstate movement to handlers indicates the product is transported easily at relatively low cost. This reduces bargaining effectiveness, because interstate shipments would be exempt from the exclusive agency bargaining process. If the product is transported easily at relatively low cost, producers in other States could sell to in-State handlers under the same exemption.

Another consideration was determining the approximate proportion of U.S. production represented by State production of a commodity. This percentage depends on the bargaining objective. If, for example, the objective is to raise farm prices and the State percentage of U.S. production is low, processors will be attracted to other supply sources. If the State percentage of U.S. production is relatively high and the objective is to raise retail prices, consumers will be attracted to substitute commodities. If the objective is for greater efficiency, the proportion of U.S. production is of little consequence.

Each market attribute was accorded a weight from one to three to tell whether conditions surrounding a commodity would permit exclusive bargaining to work effectively. These weights were assigned depending on whether the attribute detracted from effective bargaining, had little or no effect on bargaining performance, or met a criterion for effective bargaining. We assumed each criterion was equally important in this analysis.

With the 6 criteria, the maximum applicability score for each commodity was 18 and the minimum was 6. Any commodity with a score ranging from 16 to 18 was considered likely to come under the proposed bargaining legislation. A commodity with an applicability score between 12 and 15 was considered as

possible, but not likely, because at least 1 market attribute was sufficiently lacking for effective bargaining. An applicability score of less than 12 indicates exclusive agency bargaining was poorly suited for that particular commodity.

No consideration was given to changes in farm numbers of production over time because these are inconclusive measures of market performance. Voluntary participation in farm association bargaining was not considered, because the objectives and quantity involved were unknown.

We concluded the legislation proposed in Wisconsin was applicable to nine commodities (see table 1) including certain vegetables for processing, certain fruit crops, tobacco, and hogs. Cash receipts from farm marketings of these nine commodities totaled about \$450 million in 1980, or 10 percent of total cash receipts for all commodities.

This analysis was completed in May 1981. Since then, we have considered other State policy measures that might help farmers correct poor market performance caused by bargaining inequities. Four specific measures include:

- (1) Evaluating the success of a Federal-State pilot project on contract price reporting for vegetables.
- (2) Reviewing our trade laws relative to minimum prices and time of payment for contract vegetables.
- (3) Thoroughly reviewing the State's processed vegetable industry in terms of marketing patterns, a financial analysis of processors, grading and inspection programs, price reporting, and terms of contracts.
- (4) Substantially revising the State's marketing act, which is comprehensive legislation for marketing orders and agreements.

Each of these interrelated policy objectives is designed to assist farmers and bargaining associations to overcome the poor market performance brought out in the analysis.

Table 1--Applicability of Wisconsin agricultural products to the proposed bargaining law

Commodity	Volume of handler concentration	Presence of alternative handlers	Real price stability	Geographic concentration of production	Presence of cooperative handlers	Volume of interstate movement	State share of U.S. production (Aver. Percent)1/	Applicability of bargaining legislation2/
Livestock:								
Fed cattle.....	high	low	unstable	low	low	moderate	5	possible (14)
Hogs and pigs...	high	low	unstable	high	low	moderate	5	possible (16)
Grade B milk...	moderate	high	stable	low	high	low	30	none (9)
Field Crops:								
Tobacco.....	high	low	stable	high	none	low	1	probable (16)
Vegetables for Processing:								
Potatoes.....	high	low	unstable	high	none	low	N/A	probable (17)
Sweet corn.....	high	moderate	decreasing	moderate	none	low	25	probable (16)
Green peas.....	moderate	moderate	decreasing	moderate	none	low	30	possible (15)
Snap beans.....	moderate	moderate	unstable	high	none	low	25	probable (16)
Cucumbers.....	high	moderate	unstable	moderate	none	low	10	possible (15)
Cabbage.....	moderate	moderate	decreasing	high	none	low	30	probable (16)
Carrots.....	high	moderate	stable	high	none	low	15	possible (15)
Beets.....	high	low	decreasing	high	none	low	35	probable (18)
Lima beans.....	high	low	unstable	low	none	low	10	possible (15)
Fruit Crops:								
Apples.....	high	low	stable	high	none	low	1	probable (16)
Cherries.....	high	moderate	volatile	high	none	low	5	probable (17)
Cranberries....	high	low	increasing	moderate	high	low	40	possible (13)

1/ Percentages are approximate and based on actual percentages from 1970 through 1980.

2/ Numbers in parentheses indicate applicability scores.

EXCLUSIVE AGENCY BARGAINING

Noel Stuckman, Manager
Michigan Agricultural Cooperative
Marketing Association

My comments are based on the experience of several divisions of our marketing cooperative that operates as an accredited association under the provision of the Michigan Agricultural Marketing and Bargaining Act, commonly known as P.A. 344. That act is probably the best, and maybe the only, example of exclusive agency bargaining for agricultural commodities in the United States. I will attempt to share our experiences with the Michigan farm bargaining law and use of the exclusive agency concept.

Our Michigan Asparagus Growers Division has represented growers in the processing asparagus bargaining unit in negotiating with processors for prices, grades, and other terms of trade for 8 consecutive crop years, 1974 through 1981. The Michigan Processing Apple Growers Division, the accredited association, represented the growers in that respective bargaining unit for 7 consecutive crop years, starting in 1975. Our Kraut Cabbage Growers Division has represented the growers for 7 crop years, also starting in 1975, so we've had 7 to 8 years' experience operating under the provisions of our act.

We're dealing with different types of commodities. Negotiations for asparagus, a perennial vegetable crop, are concluded just before the start of harvest. Cabbage for sauerkraut is an annual vegetable produced under a preplanning contract, with negotiations completed well before spring planting. Of course, apples are a perennial fruit crop, and we complete negotiations before the start of harvest for our major processing varieties. We're dealing with different sizes of bargaining units--radically different sizes. Our smallest bargaining unit is our cabbage unit, with about 12 growers, 1 processor having 1 plant, and all the major growers as association members. About 500 asparagus growers are in the bargaining unit, with 13-14 handlers. Total handlers approach 40, when we include small juice mills, some brokers, shippers, and other factors in the apple industry.

The basic concept of exclusive agency bargaining includes three elements as a minimum. First, there is a bargaining unit composed of producers growing a commodity in common. Second, there is a bargaining association with authority to represent and trade for all the producers in the unit, both

members and nonmembers. And third, there are rules that establish obligations and rights of members, nonmembers, and handlers.

Obviously, legislation is needed to establish a set of rules to make exclusive agency bargaining a reality. In our State Farm Bargaining Act is legislation that's clearly, undeniably, farm law. It is profarmer, designed to provide a legal basis for solution to problems of bargaining power.

The act is neither antihandler, nor anticonsumer, but progrower. Support of the act came from two areas of concern to growers. That grower support, involvement, and action caused our legislature to pass the bill and the governor to sign it into law.

One area of concern is the refusal of some processors to recognize and negotiate with associations that represent substantial numbers of producers. Bill McMillan alluded to using the tools that are available. He's never been in the position that people in our association have before P.A. 344, days of going to major processors and saying, "Look, we've got the majority of the producers who deliver to your company signed up in our association. We represent them and we want to negotiate the prices." After some pleasant conversation, they said they would not negotiate with our association until they had to. They said, "When we have to, we will." We appreciated their honesty, and set out to work, and that's really how we got our law.

The other point of concern to association members is the free rider problem--growers who benefited from bargaining association activities without cost or obligation. The act clearly remedies these two problems. Handlers are required to negotiate in good faith. Deadlines that are established cause timely agreements, especially with arbitration a reality if agreement is not reached.

I feel strongly about our need for arbitration in bargaining legislation. I think arbitration has to be there to make things work. Also, both members and nonmembers pay marketing fees. Nonmembers receive the same association services as members. For example, we send nonmembers the newsletter, they can call our toll-free Wide Area Telephone Service (WATS) line, and use our apple sales desk. The primary thing a nonmember does not have is a vote in electing the marketing committee--the key people in negotiations.

Several things come to light that won't show up in a theoretical analysis before the fact. I'll just cite a few. One thing we discovered was handlers (processors) appreciate

the base or minimum price approach. For perennial crops like asparagus and apples, our marketing committees and managers have negotiated base prices. Handlers may at their discretion pay higher prices for raw product based on their needs for increased supply, quality, or whatever they consider a reason to offer more money. Handlers have the assurance that their competitors buying in the same production area, the bargaining unit, are not going to buy cheaper and obtain a raw product cost advantage.

Processors are concerned about their competitors buying their product cheaper. We have had several instances of handlers deciding unilaterally to lower their prices below the agreed base price. Obviously, this instantly brought forth grower complaints of reduced prices. But the most vehement complaint came from other handlers, alarmed because competitors might be able to buy their raw product supplies at a lower cost. We complained to our Agricultural Marketing and Bargaining Board and in all cases stopped those kinds of practices.

Another point is it sets up a price discovery process that works year after year. I've been attending most of these National Bargaining Conferences for the past 20 years, and you know the success stories we've heard from associations and their glowing terms about what they are doing. A few years later, they are not even at the conference, and you ask where they are. Well, they're not in business anymore--they've disbanded, they're gone.

You can look good in years when it's a seller's market, but things can disintegrate in years when it's a buyer's market. All our commodities go through those cycles and need an association to be accredited. Under our State Farm Bargaining Act, you can sustain yourself through those tough years, when you are doing growers the most service.

Another point I want to make is the discipline of the competitive market system. Critics of exclusive agency bargaining worry about things like producers pricing themselves out of the market, food prices on the increase, closed shop, compulsion, more Government regulation, and all the buzz words they can apply. They really like to tee off on the concept, but our marketing committees and staff generally have disregarded critics and have made exclusive agency bargaining work. We're dedicated; we've gone after the objective; we've been fair, realistic, and have attained prominent positions in those commodities for which we have accreditation.

What we really have is a price discovery system that works. Supply and demand set the parameters and the accredited

association, and handlers go about solving the mutual problem that comes up every year, one for both handlers and growers, setting a price on the raw product. Most important, I think, is what the affected growers believe. Our experience has shown several things. Each year, we increase our portion of grower-members in the bargaining unit. If growers didn't believe they were benefiting, the percentage would go down and we would lose our accreditation, because we have to have 50 percent of growers having 50 percent of production in the bargaining unit.

Another point is financial creditability. As a cooperative, we provide services on a cost basis. If income exceeds expenses in any given year, monies are returned to the growers. Members receive patronage; nonmembers receive fee refunds. In many years, these returns are substantial, clearly indicating to all growers money collection is not a primary association purpose. The association's first purpose is bargaining representation.

We've got our critics. Growers who have not joined and have long ago taken an anti position just can't quite join and be a part of the team. A lot of these grower critics don't like fees deducted by the processors and sent to the association. But when they receive a substantial portion of those fees back in a given year, look at the results, and the way they are treated as nonmembers, it lessens their opposition substantially.

STATE BARGAINING LEGISLATION
An Overview

Dennis P. Smith
Agricultural Cooperative Service
U.S. Department of Agriculture

(Attorney Dennis Smith has left ACS to join the law firm of Hunton and Williams, Richmond, Va.)

For those who have actively followed new bargaining legislation in recent years, it may come as a surprise that many "new" ideas are not new at all. In fact, some important features thought desirable for bargaining laws have been in effect for 60 years.

At the national level, the Agricultural Fair Practices Act of 1967 has received much attention by bargaining scholars and others interested in farmer collective bargaining efforts. A few States, most notably Michigan, have adopted bargaining statutes that vary in kind and effectiveness.

In the early 1920's, farmers were concerned with their helplessness in the marketplace, just as they are today. Well over three-fourths of the States passed laws intended to help farmers, or more correctly, give farmers a way to help themselves.

Survey of Statutes

Those laws permitted farmers to form cooperative associations to do a wide range of things collectively, including bargain. Most cooperative incorporation statutes enacted in the 1920's still exist and are still important.

Agricultural Cooperative Service has nearly completed a comprehensive survey of State statutes under which farmers may organize cooperative associations. A report on the project will be published later this year. One interesting finding of the study was a discovery of several statutory provisions in most States similar to fair practices rules.

Most State cooperative laws describe marketing contracts between cooperatives and patrons. A marketing contract, sometimes tied directly to cooperative membership, is an agreement that the cooperative will handle the member's product and the member will deliver farm products to the cooperative for sale. Marketing contracts also may provide for cooperative bargaining.

Affect Bargaining

State cooperative incorporation statutes affect the bargaining process in three ways--enforce the agreement between the cooperative and the patron, rule against interference with the contract by outsiders, and prohibit certain unfair practices.

Under most State incorporation statutes, a member who has agreed to use the cooperative in the marketing or bargaining process can be prevented from breaking the agreement. Legally, this is a powerful way to hold farmers' commitment to the cooperative association. However, an organization that must rely on such legal action to maintain its strength has found long ago it has no strength. Incorporation statutes permit farmers to join voluntarily, but they do not make a strong organization in absence of member commitment.

Contract Interference

Though bargaining commitment must come from among farmers within the cooperative, outside forces may interfere with farmers' effective use of their organization for legitimate purposes. Most State statutes have rules against some kinds of outside interference. One kind of protection has to do with marketing contract interference.

Thirty-one States have a cooperative incorporation statute that prohibits outside interference with marketing agreements between members and their cooperative.

There is, of course, variation among the States. However, most statutes say "any person or persons or any corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association organized hereunder to breach his marketing contract with the association..." has violated State law.

Most statutes say a person is guilty of a misdemeanor and is subject to a fine for each offense. In addition, one who interferes with a marketing agreement may be required to pay a penalty to the cooperative. Seven statutes specifically authorize an injunction against interference with marketing contracts.

False Information

Thirty-one States have laws that make it illegal for any person or corporation to "maliciously and knowingly spread false reports about the finances or management" of a cooperative. Fines and a penalty payment to the association may be required for breaking the law against false reports.

How effective have the State laws been? It is difficult to tell. Some court cases are applying the interference and false information laws. Also, general contract law may apply to contract interference, rules not restricted to just cooperative marketing contracts.

A few States have enacted bargaining laws more specifically designed for the bargaining process. They vary among States, and their effects have not been studied extensively.

STATE BARGAINING LEGISLATION
Maine

Arthur Ashley
Agricultural Bargaining Council

The Agricultural Bargaining Council of Maine, Inc. (ABC), represents more than 600 potato growers and is governed by a 21-director board. ABC bargains and negotiates contracts for members with Maine potato and green pea processing companies.

The first effort to bargain for contracts began in 1969 by a bargaining committee appointed by the Maine Potato Council. Although processors were cordial, it soon became obvious that a more concentrated effort was needed. The next year ABC was created. Still, Maine had no bargaining law.

Only slight progress was made. Processors needed only to find a few weak growers to sign the contract offered and the die was cast. Despite early adversities, the enthusiasm of the original growers, who began the effort to bargain, remained steadfast. Membership grew slowly, but steadily.

In 1973, the Marketing and Bargaining Act became law. The poultry industry, with support from Maine's Farm Bureau, initiated the bill and sought its enactment. But by the time it became law, the poultry industry was so integrated that certification criteria in the law could not be met by the producers.

The law was similar to the bill (H.R. 4975) recently introduced in Congress by Rep. Leon Panetta (California). The State agriculture committee conducted lengthy hearings. Many groups joined ABC in testifying for the bill.

National Farmers Organization, processors of several commodities, and some integrated potato and poultry companies opposed it. Processors said the bill would cause plants to close and companies to move out of State. The bill eventually became law. In 1974, the first contracts were negotiated.

The law is still working. Relations between ABC and the processors are less antagonistic. ABC is the accepted voice of the grower. Companies regularly solicit its support on public interest topics such as pollution, legislation, and community problems. A large fresh-pack operation and a large storage company, while not required to bargain by law, have chosen to do so.

Two Amendments

Only two amendments have been offered. In 1977, Maine's largest potato processor proposed an amendment calling for a supply contract. The company would have a contract with ABC only, rather than with individual members. ABC pointed out the company no longer would be able to choose preferred producers, but would have to accept product from those offered. The bill later was withdrawn.

By 1979, some vehicle was needed to end negotiations and settle contracts. Settlements were coming later and later each year. Both sides agreed on the need, but disagreed on the method. ABC, through association with the Potato Marketing Association of North America, learned of "Final Offer Selection" being used in the province of Ontario, Canada, for the final Settlement of some commodity contracts.

ABC decided to seek a similar amendment to Maine's law. Earlier opposition by processors later disappeared. The new law takes effect this bargaining season.

STATE BARGAINING LEGISLATION
Michigan

Thomas J. Moore
Michigan Agricultural Marketing
and Bargaining Board

In the early 1960's, Michigan growers of perishable fruits and vegetables recognized they were facing rapidly changing technology and increasing social welfare and labor legislation that would require greater capital. They would be doing business with a decreasing number of buyers, many of whom had corporate headquarters outside Michigan.

Growers were without a means of acquiring an equal voice in determining contract terms on quantity, quality, harvesting and delivery schedules, and price as it reflects on costs of production. Without this support, efficient producers found it hard to survive in the marketplace.

With performance failure of the market, participants saw the need to form self-help, voluntary cooperative marketing and bargaining associations. Unfortunately, their bargaining efforts were not consistently effective.

Grower associations recognized survival was difficult when buyers refused to bargain in good faith. Lack of mediation or arbitration services for settling disputes resulted in "take-it-or-leave-it" contracts. Growers began to seek bargaining legislation. As a result, Act 344, Public Acts of 1972, was passed.

Bargaining Petition

Michigan producers who voluntarily seek formation of cooperative marketing and bargaining associations may petition for bargaining units for perishable fruits and vegetables. An association could be accredited as the sole representative of bargaining unit members in negotiations. The act created a five-member board that reacts but does not initiate. It established obligations on handlers and associations, provided for arbitration, defined unfair practices, and prescribed penalties.

Although P.A. 344 continues to be challenged in the Michigan Supreme Court on constitutional grounds, it has met the public need for which it was intended. The Michigan legislature demonstrated its agreement by removing a 1976 expiration date.

In 1976, the Michigan Supreme Court remanded the case to the Ingham County Circuit Court. In January 1981, the circuit court judge returned his findings to the supreme court, ruling in favor of the State on all constitutional questions. Oral arguments were presented to the court last June. A decision is pending.

Seven bargaining units have been created, with an estimated potential for 34 units. Research has been done on two additional commodities to be considered for bargaining units. Other commodity representatives are awaiting the supreme court's decision. Some commodity groups report agreements by buyers to negotiate contracts voluntarily to prevent seeking creation of bargaining units. Five marketing and bargaining associations have been accredited to exclusively represent five of the seven bargaining units.

Accredited Units

Although all board activities related to two accredited bargaining units have been stayed by Michigan Appeals Court action, three have functioned with good results. Bargaining in good faith has resulted in contract agreements for asparagus (8 years), Kraut cabbage (7 years), processing apples (7 years), and red tart cherries (1 year).

Negotiated contracts have resulted in both higher and lower prices, showing the effects of competition and supply and demand. Greatly improved grade standards have resulted from both bargaining in good faith and arbitration awards.

Most handlers have reached contract settlements by bargaining in good faith. Formal and informal mediation and/or arbitration of issues before joint settlement committees have been used to settle some disputes.

Of 209 contract settlements scheduled for arbitration, 17 awards were made and 192 disputes settled without an award. Only two formal mediations have been conducted, but many informal mediations have helped reach settlements. Submission of final offers for arbitration does not stop negotiations.

Give Products Home

A number of cooperatives have been formed in Michigan, but mostly as grower efforts to "keep a home for raw products." Some Michigan corporations have acquired other firms or expanded their facilities. Also, a number of multistate firms have purchased Michigan processing facilities and/or expanded their processing capacities. Two firms have been publicly outspoken against the act, yet have increased production more than 50 percent. One closed an apple juice plant last year in a State with heavy apple production and no bargaining legislation, and in turn, installed a juice-processing operation in its Michigan plant.

The board believes P.A. 344 has had a positive impact on Michigan's processing industry. We have had plants close, but so have States without bargaining legislation. Changes in the makeup of our industry are considerably below national percentages. Industries face continual changes for numerous reasons. There has been a high rate of consolidation through acquisitions and mergers. Also, there is an acceleration in the number of bankruptcies, mostly due to management problems and increased financing difficulties.

Michigan's apple-processing capacity has increased since the law was passed and the bargaining unit accredited in 1975.

The value of P.A. 344 to Michigan growers of commodities under accreditation can be measured in millions of dollars. Not only have the nearly 1,000 various bargaining unit members benefited, but also the 1,700 other growers of accredited crops. Handlers have access to raw products and Michigan consumers gain from a healthy Michigan fruit and vegetable processing industry.

STATE BARGAINING LEGISLATION
New York

Robert Smith
New York Farm Bureau

In the 1981 session of the New York State Legislature, farm groups and individual growers successfully pushed legislation that allows for a bargaining framework for processing apples. The law was enacted only after a decade of legislative activity aimed at adopting bargaining legislation. Although less comprehensive than earlier initiatives, it offers a bargaining avenue previously unavailable to apple growers.

New York's processing apple industry is concentrated in a five-county area along Lake Ontario. In 1980, estimated production of 650 growers of processing apples was 690 million pounds. Average price was \$86 per ton. Annual total farm value for the State's processing apples is estimated at \$30 million.

New York is the second largest apple-producing State, next to Washington. About 60 percent of statewide production is for processing and 40 percent for fresh. Studies have indicated New York's producers have received 5 to 10 percent less than the national average for processing apples during the past decade.

State Legislation

Since the early 1970's, New York Farm Bureau has worked for State agricultural bargaining legislation. The original proposal was similar to Michigan's act enacted in 1972. New York's bill allowed for a three-person agricultural bargaining board, standards for accreditation of grower associations, bargaining in good faith, establishment of joint settlement committees, and arbitration for all fruit and vegetable crops.

After 10 years of legislative activity, the proposal never reached the floor of either the State senate or assembly. It became apparent the major commodity interest desiring the proposal was the apple-processing segment. So, the bill was amended only to cover processing apples. But, after extensive efforts in 1980, the decision was made to simplify the proposal to facilitate passage.

Last year, we compromised with the chairman of the New York Assembly Agriculture Committee. He previously had opposed the legislation. The agriculture and markets law was amended, with two bills authorizing a marketing order regulating bargaining

between apple growers and processors. State market orders in New York had been established primarily for promotion and research programs for milk, apples, and most recently, wine grapes.

The bargaining proposal only slightly amended the market order provision of the law. A section of law relating to what a market order may contain was amended to include "provisions to allow for growers or associations to bargain in good faith with processors or handlers through a joint settlement committee."

Good Faith

Good faith bargaining was defined as a mutual obligation of processors and growers to discuss price and other contract terms. The joint settlement committee was required to have equal representation of growers and processors, with a chairman to represent the New York Department of Agriculture and Markets.

A section added provides that if a market order for bargaining is established, the commissioner of agriculture, by July 15 of each year, will appoint a joint settlement committee to facilitate good faith bargaining. In the event of disagreement on price and other contract terms by October 1 of each year, the committee will recommend to the commissioner a price and other terms considered binding on all producers and processors subject to the order. The commissioner will accept the findings unless he feels it is not in accordance with the intent of the law. Authority is given for the joint settlement committee to set procedures to select bargaining representatives and remedies for failure to bargain in good faith.

Advisory Board

A nine-person advisory board makes recommendations to the commissioner of agriculture on the operation of the order. On the board are six producers, two processors, and one department representative. This advisory board would make recommendations relating to assessment and the budget.

On certification of the order, the commissioner will contract with the New York Farm Bureau Marketing Cooperative as the approved association to represent the producers subject to the order (both members and nonmembers of the cooperative).

The joint settlement committee will have representatives of the growers and processors and a chairman designated by the State agriculture commissioner. The committee is responsible for facilitating good faith bargaining on minimum price and other contract terms. During the initial phase of price negotiations, the committee designates bargaining representatives, based on nominations, for the association and

individual processors. The commissioner may provide for mediation of disputes and remedies for failure to bargain in good faith.

Recommends Terms

If agreement is not reached on contract terms by October 1 of the market season, the joint settlement committee, after receiving information from the parties in dispute, recommends terms to the commissioner. The commissioner finalizes the recommendations unless they appear to violate provisions of the law. But it is unlikely the commissioner would change the committee's recommendations.

Producer-owned and- controlled processing cooperatives are exempt from the provisions except for the quantity they purchase from nonmembers or from members in excess of their membership contract.

Rates of assessment for the order operation allow for a deduction of up to 2 percent of the gross value of processing apples delivered. The advisory board, consisting of a majority of growers, recommends a budget to the commissioner including the monies necessary for the marketing cooperative's responsibilities representing the growers. At that point, growers would contract with the marketing cooperative.

Order participants must produce more than 5,000 bushels of processing apples in any marketing season. Small producers are excluded intentionally from the provision.

New York Decision

A recent decision by the New York Department of Agriculture and Markets established guidelines for petitions to initiate a bargaining order. They are substantially more extensive than required under a proposed promotion order. Grower petitions must contain signatures of at least 60 percent of the growers in the five-county area. Previous promotion orders required 55 percent. After a petition is submitted, hearings may be held and amendments made. A referendum of growers follows.

Also included in the New York law is a 5-year sunset provision. The legislature will reconsider the proposal in the 1986 session and readopt if deemed successful.

A market order for bargaining conforms with the traditional intent of assuring orderly, effective, and equitable marketing and eliminating unjust impairment of the purchasing power of agricultural producers.

This market order approach is a major step in agricultural bargaining in New York. While limited to processing apples at present, in time it will include other commodities.

STATE BARGAINING LEGISLATION
Washington

Jerry Heilig
Washington Potato Growers Association

This past year, Washington's potato industry had a series of serious problems similar to experiences of California tomato growers in the past 2 or 3 years. These problems illustrate the gross inequities in the Agricultural Fair Practices Act to provide remedy for growers under such circumstances.

In the 15 years of the processed potato industry's existence, cooperatives have tried without success to get into processing in every major area of the United States. The last survivor, a cooperative in the Red River Valley, recently sold to a noncooperative international firm operating in both the United States and Canada. Potatoes throughout the United States and Canada are sold to a handful of large conglomerates.

Growers in Washington felt they had one of the more efficient and productive bargaining associations in the potato industry and had good success through the mid-seventies.

Minimal Increases

Since 1979, costs have soared, but contract price increases have been minimal in comparison. Last year, costs rose 23 percent. Growers rejected the processors' offer of an 11-percent increase in contract prices. Processors threatened to bypass the bargaining cooperative and offer contracts to individual producers.

Two major processors were successful in signing contracts with nonmember growers and others who previously had not grown potatoes. Member-growers with custom farm operations planted potatoes and later harvested them but received only a breakeven price. It was a discouraging time.

Several processors were unable to get preseason contracts. They waited to contract later in the summer after the association had released its growers. The processors then picked up existing contract growers at a price comparable to the contracts signed earlier in the year by the two majors.

Many growers used a provision in the membership agreement allowing them to resign at the end of the year. Some growers were angry. A number of loyal growers were concerned that if they remained in the association, they wouldn't get a contract next year. Bankers said they had to have a contract or couldn't get any money, so these growers resigned. As soon as

a contract is determined, settled, and signed, many growers will rejoin the association.

The need for effective State legislation was imperative because of inaction on any Federal legislation. Last summer, the association began to prepare legislation and successfully enlist support in the legislature and among State commodity organizations such as the Washington Wheat Growers Association.

The Washington proposal is patterned after the national legislation, with several major exceptions. The accreditation procedure and the remedy of unfair practices are similar, but the proposal has final offer arbitration provisions. If an impasse occurs in negotiations, either growers or processors may request final offer arbitration from the secretary.

If a request for arbitration is made within 5 days, the secretary provides a list of five people chosen by lot. Growers and processors may each check one name off at a time. After two rounds, the finalist becomes the arbitrator.

Within an additional 5 days, both parties provide their final offer to the arbitrator. They will outline all the areas in agreement, disagreement, the final proposal, and how to resolve areas of disagreement. Within 10 days, the arbitrator must select one position or the other. This provision encourages the bargaining process by bringing both parties closer together.

STATE BARGAINING LEGISLATION
Wisconsin

Alton Rosenkranz
Wisconsin Farm Bureau
Marketing Association

Most of Wisconsin's bargaining legislation is contained in Chapter 185 of the Wisconsin's Statutes, commonly called the "Co-op Code."

Some of its provisions are beneficial to bargaining associations--compulsory deduction of dues or service fees by processors and handlers for qualifying associations and antidiscrimination provisions with teeth. A corporation can lose its corporate charter if found guilty of discrimination against an association of agricultural producers.

Additional legislation is contained in Chapter 100 of the Fair Trade Practices section of the statutes known in the industry as the "Ten Percent Act."

It says any processor who grows more than 10 percent of required acreage on company-owned or controlled acreage cannot pay the grower under contract an amount less than the processor's cost of production based on a 3-year average.

Sweetheart'
Contracts

This prevents processors from effectively coercing growers, saying either accept the contract offer or the processor will grow the acreage required on company-owned or controlled acreage. This legislation effectively puts a floor under the raw products market.

Investigations have provided evidence of special "sweetheart" contracts. Negotiations can be dragged out providing an opportunity to sign new growers and weaken the association. This is not good faith bargaining.

The Processing Vegetable Division and the Red Tart Cherry Division of the Wisconsin Farm Bureau Marketing Association requested additional legislation to provide for last-offer arbitration of issues in disputes between a processor and an accredited association. The State Farm Bureau adopted this concept as policy.

Cheaper, Quicker
Remedies

State Sen. Thomas Harnisch, chairman of the Senate Committee on Agriculture and Natural Resources, was principal sponsor of the bill. It provided for accreditation of associations representing more than 50 percent of the producers in a

bargaining unit, mediation of disputes, and last-offer arbitration by a three-person joint settlement committee. The bill's antidiscrimination language made remedies less expensive and possibly faster under State law.

My understanding is that under Wisconsin law, a judge must render a decision within a certain reasonable period of time or he ceases to receive his pay check. This speeds up the judicial process. The act also provided "Thou Shalt Nots" concerning the association: violate contracts or fail to comply with an arbitration award, violate association bylaws, or refuse to bargain with a handler.

This bill was supported by Farm Bureau and Farmers Union and opposed by most processors, Wisconsin Cannery and Freezers Association, and National Farmers Organization.

After two hearings, the bill was favorably reported out of the Senate Committee on Agriculture and Natural Resources. But Senate Bill 73 stalled and later died after an unsuccessful recall effort against the author, Senator Harnisch. He has since indicated plans to retire from the State legislature, which effectively kills the bill for this session. The legislature returns in January.

STATE BARGAINING LEGISLATION
California

Ronald A. Schuler
California Canning Peach Association

California's Fair Practices Act closely parallels proposed Federal legislation. We have bargaining in good faith, but no real implementation, although our State department of agriculture has intervened. So it is really up to the bargaining groups to make it work.

Some commodities are having difficulties and, therefore, have a real need for Federal bargaining legislation. Last year, we had some new legislation that I think is going to help bargaining efforts and farmers' knowledge of some commodities. Kalem Barserian, president of the national bargaining group, was instrumental in securing its passage.

It says handlers of raisins, prunes, and walnuts will report the prices paid and tonnage handled and the California Department of Agriculture will publish them. Tomato and freestone peach growers are looking at it for help with some of their handlers. We may try to amend this legislation to include other commodities in 1982 or 1983.

1976 Strike Impact

Another area also deserves attention. At the peak of our harvesting season in 1976, Teamster cannery workers closed our processing plants in California for 11 days. That strike cost California fruit and vegetable growers about \$90 million and left thousands of farm workers unemployed. Consumers bore the ultimate cost.

Here is a breakdown of commodity losses: 1-1/2 million tons of tomatoes (\$70 million farm value), 75,000 tons of cling peaches (\$8.6 million farm value), 30,000 tons of apricots, (\$4.5 million), and 30,000 tons of pears (\$3 million). Freestone peaches plus some white and green asparagus did not get processed. Cannery workers lost \$35 million in wages. Farm workers lost \$33 million because of the work stoppage. And cannery workers have yet to make up for the loss, even with increased wages and benefits.

In 1979, U.S. Rep. John Ashbrook of Ohio introduced a Perishable Food Act, but because of the Labor Committee in the House of Representatives, we did not even get a hearing. Now we are attempting to introduce the Perishable Food Act of 1982. It protects the public interest when third-party labor disputes affect marketing of agricultural products for

processing. The bill would establish procedures preventing the loss of perishable food products through strikes within the agricultural processing industry.

We are seeking support for this legislation in all segments of agriculture where handlers of perishable products are involved and the producer is not a party to the negotiations.

NATIONAL BARGAINING LEGISLATION

Congressman Tony Coelho
U.S. House of Representatives

When I joined Congressman Bernie Sisk's staff in April 1965, one of the first things I started working on was S. 109, Vermont Senator George Aiken's bill, dealing with bargaining associations. I'm not really sure if the Senator knew what he was getting into. We didn't have any strong House support.

Someone suggested Congressman Sisk be on this bill, and he agreed to it. We went through an interesting battle. We compromised a lot, and finally got some legislation through. It was a wonderful experience, and I found out very early in my career the differences between cooperatives, bargaining associations, and processors. It gave me an early education that has helped me on a lot of other things since then.

Let me discuss with you specifically the bargaining legislation that you have in now and the possibilities of it going somewhere: I don't think your bill has a prayer of a chance in getting through Congress in this session, because growers tend to sit back and not push when things aren't quite as bad as they could be. The problem we have had on the bargaining legislation since 1965 has been lack of consistent concern among farmers. We've had a spotty record. You're not going to get anywhere with this legislation unless you people who are involved and directly affected make it a top-priority issue.

You must be willing to be concerned and committed and go to all the national groups to find out who is or who is not going to be your friend on the legislation. You must know who is or who is not going to make it a major issue of concern. Not until then will you get any legislation. You don't have it now. You're not committed, you don't have the national organizations committed, and you're obviously not going to get us in Congress to go ahead and fight the battle for you. Unless you yourselves are united, it's not going to go anywhere.

The Administration officials are going to stay away from this issue as long as they possibly can, and I don't blame them. Why should they get in the middle of a fight before it's ready to be fought? They're not going to get in the middle of it until it's ready to move legislatively.

Last year in Florida I said I was not a Democrat who cried over spilled milk. I believe in the game. I happen to believe strongly in the governmental process and in politics. I believe it's healthy for people to win and lose. But, I said at that time, American agriculture didn't win in the November 1980 election. Certain parts of agriculture won, but, in my opinion, one group lost, the cooperative movement, the bargaining movement, the marketing order movement, so critical to California agriculture.

When I got through with my speech, I got a standing ovation. I don't think it was because of those remarks. I think it was out of concern to get me off stage before I said something else.

Last year, we fought enough on the issues absolutely critical to you to know that the Office of Management and Budget (OMB) is marching to a different drummer than you. I'm not accusing OMB officials of being antico-op, or antimarketing order, or antibargaining association. But I can tell you one thing: they are not your friends. I'm not telling you certain processors have more access than you have, but I can tell you they're not upset about what's going on.

The whole movement in regard to guidelines on cooperatives and marketing orders should be a clear signal to you of our problems. Conversely, the problem we had in regard to the almond order is an indication of the education that you and I must provide this group in office. It is absolutely critical that you decide you have to educate people and get out and do it.

I don't really care which Administration is in office. Some of you know I fought during the Carter Administration on many issues, some of which were critical to co-ops. I believe strongly in the cooperative movement, bargaining associations, and marketing orders.

A lot of it has to do with where I was born and raised and where my family came from. It also has to do with a my deep belief that the cooperative movement is what makes California agriculture so strong. I like to fight with the George Millers of this world and tell them why it is so important to have bargaining associations and marketing orders and that it is in their interest to have this type of agriculture.

I recently set up a meeting between many different agricultural groups from California and a candidate for governor. I told the candidate he should get to know the size of farms, cooperatives, marketing orders, etc. It isn't some huge giant out there intent on fighting and destroying the

consumer. It's a group of small farmers who by an act of Congress we have permitted to get together collectively and do something that's in their best interests and in the best interest of the consumer. But, the people who are not looking out for your concerns try to deliberately mislead and misinform all the time. There's nothing wrong with that, unless they get away with it.

It's critical for you to get out and make sure you understand what it's all about. I'm one who believes strongly in political involvement by individuals. Growers have a tendency to say they haven't got time and leave it up to somebody else. Someone's going to fill the void. If you don't move in and do it, somebody else will.

People are concerned, particularly in California, about Cesar Chavez, the unions, and so forth, and I know most of you feel organized labor represents an overwhelming majority of the labor force in this country. Organized labor represents less than 14 percent of the labor force in this country. But you wouldn't believe that if you looked at the newspapers and watched the evening news. Why? Because they are committed, involved, willing to stand up for the things they believe in, and make an impact.

Agriculture represents about 6 percent of the population. I know a lot of people in the agricultural movement who say we have no influence. You have all kinds of influence if you want to be politically involved and treat it as a business decision. I have no trouble with how you vote personally or what you do with your own money politically. But you should make a business decision in regard to your political money, also. Just like any other business transaction, it is a business.

Your Federal Government is the world's largest corporation. It doesn't function too well every once in awhile, but it is the world's largest corporation, and you're the stockholders. As stockholders, you need to be involved in what's happening, and it's the stockholders who are more involved and more committed who have an impact. And agriculture can have a great impact.

It's the same thing with any national issue. When we confronted the co-op issue, we faced action from the Federal Trade Commission. Some people said we couldn't do it. Some people in certain agricultural groups said to compromise. How can you compromise on something basic--your right to bargain and market collectively? At some point, you have to be willing to stand up and fight for what is critical to you. So it is with bargaining associations.

If this legislation is critical, I couldn't tell by the way you people have been handling it. If it is critical to you, then make it a top priority. Make it an issue with every member you're involved with. Make it an issue with the associations you're involved with. Make them make a decision as to whether it's critical to their organization. And if it isn't, you know where their friendship is, or you know what their concern is about your issue. That doesn't mean they are wrong. That doesn't necessarily mean they are unfriendly to you. All it means is they may have higher priorities, but at least you'll know.

My message basically is that if this legislation is critical, the only way you're going to get any movement is if you personally get committed politically. You have a problem in Congress, the Administration, and among farm groups nationally. It's a pretty big burden, but it can be overcome, if you're willing to commit yourself.

It is absolutely necessary we continue an atmosphere in the Administration, in Congress, in the State governments where we have access to foreign markets. I think it's necessary, and I've advocated this to the Secretary of Agriculture and to some of his people, and I'll continue to push. Earl Butz, whether you liked his politics or not, was, I think, the best Secretary of Agriculture serving as an advocate for farmers. He talked about exports in a speech in Florida recently. In 1969, we exported \$6 billion worth of agricultural commodities. In 1980, we exported \$41.3 billion. Tell me that isn't critical to the economy of this country. Tell me it isn't critical to the economy of each and every one of you. We have to have those markets.

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